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MAY 24 2004

In re Application of
Yamamoto, et al.
Application No. 10/705,228
Filed: November 12, 2003
Attorney Docket No. 4559-006

: **OFFICE OF PETITIONS**
: DECISION GRANTING
: PETITION
:

This is a decision on the petition under 37 CFR 1.53(e), filed March 19, 2004, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figures 6 and 7 described in the specification was omitted.

The application was filed on November 12, 2003. On February 10, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figures 6 and 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 6 and 7 be accorded a filing date of November 12, 2003 on the basis that 7 sheets of formal drawing figures, including Figures 6 and 7, were received in the Patent and Trademark Office (PTO) on November 12, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing November 12, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of formal drawing figures were filed on November 12, 2003. MPEP 503. A review of the originally filed sheets of drawings reveals that only 5 sheets, depicting Figures 1-5, are present.

Accordingly, the request is granted. Pursuant to petitioners' authorization, the \$130.00 petition fee will be credited to deposit account no. 07-1337.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 12, 2003, using copy of Figures 6 and 7 submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions